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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/734,494	12/12/2003	Michael J. Muller	IBM-003	1618
51835 7590 10/05/2009 IBM LOTUS & RATIONAL SW c/o GUERIN & RODRIGUEZ 5 MOUNT ROYAL AVENUE MOUNT ROYAL OFFICE PARK MARLBOROUGH, MA 01752				
EXAMINER KHANNA, MADHU				
ART UNIT 2451		PAPER NUMBER		
MAIL DATE 10/05/2009		DELIVERY MODE PAPER		

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/734,494
Filing Date: December 12, 2003
Appellant(s): MULLER ET AL.

William G. Guerin
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 11 August 2009 appealing from the Office action mailed 24 December 2008.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

No amendment after final has been filed.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

2003/0065721	Roskind	04-2003
2003/0222765	Curbow et al.	12-2003
2003/0055908	Brown et al.	03-2003

2005/0055405	Kaminsky et al.	03-2005
6,988,128	Alexander et al.	01-2006
2004/0068545	Daniell et al.	04-2004

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roskind (Pub. No. US 2003/0065721) in view of Curbow et al. (Pub. No. US 2003/0222765) (referred to as Curbow hereafter).

Regarding claim 1, Roskind teaches a method for managing interruptions to a network user, the interruptions being generated by a plurality of senders on a network, the network user having a permanent reception list (e.g. Buddies, 816 of FIG. 8) the method comprising:

modifying a temporary reception list (e.g. Recent Contacts) in response to at least one of a determination of an occurrence of a retrospective activity and a determination of a prospective activity (screen names are added to and removed from the Recent Contacts group as IM sessions are opened and closed, and/or as membership limits are imposed on the Recent Contacts group, [0110]), the permanent reception list and temporary reception list (e.g. Buddies group 816 and Recent Contacts group 812 of FIG. 8) each indicating at least one sender from whom the network user is willing to accept an interruption (e.g. preferences may be set to allow only certain users (e.g., user's included in the subscriber's buddy list) to contact the recipient, [0068]);

receiving an interruption from one of the senders on the network (the recipient receives the instant message from the host, [0085]); and

presenting the interruption to the network user if one of the permanent reception list and the temporary reception list (e.g. Buddies group 816 and Recent Contacts group 812 of FIG. 8) includes an entry associated with the one of the senders on the network (acceptance may occur automatically if the sender is included on a buddy list maintained by the recipient, [0086]).

Roskind does not disclose a user-defined time period for the retrospective and prospective activities, or that the retrospective and prospective activities are activities

that are independent of communications having simultaneous participation between the network user and another network user.

Curbow teaches an activity (e.g. meeting) to occur in a user-defined (pre-selected rules set or preferences) time period (the meeting time compared to the present time, [0017]), the retrospective and prospective activities being activities that are independent of communications having simultaneous participation between the network user and another network user (if an upcoming event is present in the user's calendar or database, [0016]).

It would have been obvious to one of ordinary skill in the art at the time of the claimed invention to utilize a pre-selected time frame for defining upcoming or past calendar events in the system/method of Roskind as suggested by Curbow in order to allow the user to specify the notifications which the user wishes to be informed of. One would be motivated to combine these teachings to give each individual user an opportunity to select how much time the user desires to prepare for, finalize and be reminded of particular events.

Regarding claim 4, Curbow teaches the method of claim 1 wherein the retrospective and prospective activities comprise calendar-based entries established by the user (if an upcoming event is present in the user's calendar or database, [0016]).

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Roskind-Curbow in view of Brown et al. (Pub No.: US 2003/0055908) (referred to as Brown hereafter).

Regarding claim 5, although Curbow teaches determining the prioritization of a calendar event [0017], Roskind-Curbow do not disclose receiving, comparing and presenting an interruption with an urgency value.

Brown teaches the method of claim 1 wherein the step of presenting the interruption further comprises:

receiving an urgency value (priority value) associated with the interruption (message request);

comparing the urgency (priority) value with an interruption threshold value (priority requirement) defined by the network user; and

presenting the interruption (throughput of the message) to the network user (receiving user) if the urgency value exceeds the threshold value (whether the message request meets the priority requirement, [0060]).

It would have been obvious to one of ordinary skill in the art at the time of the claimed invention to utilize an urgency value with an incoming message in the system/method of Roskind-Curbow as suggested by Brown in order to provide more user specific preferences regarding blocking messages from other clients. One would be motivated to combine these teachings because in doing so a user could receive

important messages, while ignoring undesirable ones, rather than blocking all messages when the user is busy.

Claim 7 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roskind-Curbow in view of Kaminsky et al. (Pub. No.: 2005/0055405) (referred to as Kaminsky hereafter).

Regarding claim 7, although Roskind teaches notification settings (e.g., alerts) [0104] and Curbow teaches client notification [0026]-[0027], Roskind-Curbow do not explicitly disclose presenting an alert to the user if the sender is included in the reception list.

Kaminsky teaches the method of claim 1 wherein presenting the interruption (indicating that IM text is available) comprises presenting an alert (visual display) to the network user if one of the permanent reception list and the temporary reception list (buddy list) includes an entry associated with the one of the senders [0043].

It would have been obvious to one of ordinary skill in the art at the time of the claimed invention to utilize an alert, such as visual display, in the system/method of Roskind-Curbow as suggested by Kaminsky in order to indicate to a user that an IM is available. One of ordinary skill in the art would recognize that methods of alerting a user of an IM are utilized in the instant messaging environment because without an alert, a user would not be aware of an arriving message. One would be motivated to combine these teachings because it further specifies the user alert preferences taught

by Roskind-Curbow and explicitly discloses how a user is instantly notified when a priority contact wishes to communicate with the user.

Regarding claim 10, the method of claim 7 further comprising providing expanded information (current status) for the one of the senders (someone on his buddy list) to the network user in response to a user request (Kaminsky: hover message, page 6 [0069]).

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Roskind-Curbow-Kaminsky in view of Alexander et al. (US Patent # 6,988,128) (referred to as Alexander hereafter).

Regarding claim 6, Roskind-Curbow-Kaminsky teach the method of claim 1 further comprising:

generating a generic status message (Kaminsky: participants identified in the "customers" category receive an "out of office" icon, [0068]) if the permanent reception list and the temporary reception list do not include an entry associated with the sender (Kaminsky: determined by classification information of the message sender not being in the recipient's buddy list, [0059]) of the user status request (instant message); and

generating a customized status message (e.g. "bio-haard") if one of the permanent reception list and the temporary reception list (buddy list "friends" category) includes an entry associated with the sender of the user status request (instant

message) [0068]. However, although Roskind-Kaminsky teach enabling an IM user to display another user's current status (Kaminsky: [0069]), Roskind-Kaminsky do not explicitly teach receiving a user status request from one of the senders.

Alexander teaches receiving a user status request (detecting in incoming request for instant messaging status for the user) from one of the senders (column 3 lines 60-62).

It would have been obvious to one of ordinary skill in the art at the time of the claimed invention to utilize receiving a user status request from one of the senders in the system/method of Roskind-Curbow-Kaminsky as suggested by Alexander in order to maximize the use of the calendar to better serve the user. One would be motivated to combine these teachings because in doing so this information could be used in an automated manner to dynamically determine a calendar owner's availability and dynamically generate an automated response, further simplifying the demands on the user.

Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roskind-Curbow-Kaminsky in view of Daniell et al. (Pub. No.: US 2004/0068545) (referred to as Daniell hereafter).

Regarding claim 8, Roskind-Curbow-Kaminsky teach the method of claim 7, wherein the alert comprises a signal that an interruption has been requested, and an identification of

the at least one of the senders (indication of the message sender) is stored in a table (distinct folder) for inspection by the user (Kaminsky: [0042]). However, Roskind-Kaminsky do not explicitly disclose the alert including a portion of the message.

Daniell teaches at least one portion of an initial message from one of the senders (received message) to be previewed by the user [0059].

It would have been obvious to one of ordinary skill in the art at the time of the claimed invention to utilize previewing a portion of a received message in the system/method of Roskind-Curbow-Kaminsky as suggested by Daniell in order to provide information to the receiver regarding the content of the message so that the receiver can decide if he/she would prefer to read the entire message at that time or a later time. One would be motivated to combine these teachings because it would enhance the personalization and preferences of a user by giving the user more options as to how he/she receives messages, without increasing complexity.

Regarding claim 9, wherein the alert comprises at least one of a portion of an initial message from the one of the senders (Daniell: "Preview" window, page 5 [0059]) and an identification of the one of the senders (Kaminsky: indication of the message sender, page 3 [0042]).

(10) Response to Argument

Claim 1

Applicant alleges that the Roskind reference in view of the Curbow reference do not teach all of the limitations of independent claim 1. Specifically, Applicant argues that the applied references do not disclose:

"modifying a temporary reception list in response to at least one of a determination of an occurrence of a retrospective activity in a user-defined time period and a determination of a prospective activity scheduled to occur in a user-defined time period, the retrospective and prospective activities being activities that are independent of communications having simultaneous participation between the network user and another network user" (claim 1; appeal brief: pages 6-8).

Applicant's basis for this argument is that in the Curbow reference, determined events alone do not result in a modification or alert being provided to the user, but rather relies on a subsequent step applying the user selected rules to any initially-identified emails to determine the final emails for notification, and further, that the Curbow reference does not teach or suggest that any determined upcoming events could be used to modify existing lists of network users.

Applicant's arguments have been fully considered but are not persuasive and the examiner must respectfully disagree. It is first noted that the claim language of the argued claim does not explicitly explain how a prospective activity scheduled to occur in a user-defined time period is determined. It is therefore believed that for this to happen, the user must previously specify predefined rules regarding a particular period of time in order to set the user-defined time. When determining a prospective scheduled activity, the process must apply this rule defining the particular period of time to the activities in

order to distinguish an event occurring within the period of time, as opposed to all other events scheduled to occur outside of the time period. Hence, with regard to the Curbow reference, the scanning of the user calendar directly correlates with the determination of a prospective activity and the application of user rules including the meeting time compared to the present time directly correlates with determining that the prospective activity is scheduled to occur in a user-defined time period.

Further, it is first noted that the modification of an existing list is taught by the Roskind reference and although Roskind is directed to an instant messaging environment and Curbow is directed an email environment, both references deal with managing alerts for received electronic communications from particular senders based on occurring events. One would realize that in a computer environment, often times users multitask and may become busy and sometimes overwhelmed. Therefore, monitoring the reception and notification of electronic messages can result in the user working more efficiently by preventing unnecessary distractions and also prevent unintentionally ignoring or missing essential messages. This is true for both instant messaging and emails. Based on the broadest reasonable interpretation of the argued claim language, it is believed that the combination of the applied references fully teach the claimed limitation.

Claim 4

Applicant argues that claim 4 depends from allowable claim 1, and therefore is allowable over the cited references for the reasons argued with respect to claim 1. The

examiner disagrees that claim 1 is allowable, and therefore claim 4 is rejected for the same reasons as claim 1, recited above.

Claim 5

Applicant argues that claim 5 depends from allowable claim 1, and therefore is allowable over the cited references for the reasons argued with respect to claim 1. The examiner disagrees that claim 1 is allowable, and therefore claim 5 is rejected for the same reasons as claim 1, recited above.

Claim 7 and 10

Applicant argues that claims 7 and 10 depend from allowable claim 1, and therefore are allowable over the cited references for the reasons argued with respect to claim 1. The examiner disagrees that claim 1 is allowable, and therefore claims 7 and 10 are rejected for the same reasons as claim 1, recited above.

Claim 6

Applicant argues that claim 6 depends from allowable claim 1, and therefore is allowable over the cited references for the reasons argued with respect to claim 1. The examiner disagrees that claim 1 is allowable, and therefore claim 6 is rejected for the same reasons as claim 1, recited above.

Claim 8 and 9

Applicant argues that claims 8 and 9 indirectly depend from allowable claim 1, and therefore is allowable over the cited references for the reasons argued with respect to claim 1. The examiner disagrees that claim 1 is allowable, and therefore claims 8 and 9 are rejected for the same reasons as claim 1, recited above.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/M. K./
Madhu Khanna
Examiner, Art Unit 2451
/John Follansbee/

Supervisory Patent Examiner, Art Unit 2451

Conferees:

/Salad Abdullahi/

Primary Examiner, Art Unit 2457

/John Follansbee/

Supervisory Patent Examiner, Art Unit 2451